IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

CRL.A.No. 2105 of 2003()

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AGAINST THE ORDER DATED 24.5.2003 IN CC.65/2001 OF JFCM, THIRUVALLA
SPECIAL LEAVE GRANTED IN CRL.L.P.482/2003 AS PER ORDER DATED 22.10.2003

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APPELLANT: COMPLAINANT:

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T.V.KURUVILLA,
THALAYINAPARAMBIL HOUSE, KIZHAKKUMBHAGAM,
P.O. NIRANAM.

BY ADV. SRI.SATHISH NINAN

RESPONDENTS: ACCUSED & STATE:

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1. ABDUL GAFOOR,
PUTHUVAL 9/474, KOMANA, AMBALAPUZHA P.O.

2. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**K.R.UDAYABHANU, J**

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Crl.A.No.2105 of 2003

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Dated this the 26th day of September, 2007

**JUDGMENT**

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 29.10.2007.

The appeal is allowed.

**K.R.UDAYABHANU,**
**JUDGE**

csl